

Appl. No. 10/618,360  
Amdt. Dated September 29, 2005  
Reply to Office Action of June 30, 2005  
Atty. Dkt. No. 8592-116

## REMARKS/ARGUMENTS

This reply is responsive to an Office Action mailed June 30, 2005. Reconsideration and allowance of the application and presently pending claims 1-42 are respectfully requested.

### Present Status of the Patent Application

Claims 1-42 remain pending in the application. Claim 32 has been amended.

### Response to Claim Rejections Under 35 U.S.C. §102

Claims 1-12, 26-33, and 38-42 stand rejected under 35 U.S.C. §102(b) as being anticipated by Hunt (U.S. Patent No. 6,332,546). Applicant respectfully traverses this rejection.

For a proper rejection of a claim under 35 U.S.C. §102(b), the cited reference must disclose all elements/features/steps of the claim. See, e.g., *E.I. du Pont Nemours & Co. v. Phillips Petroleum Co.*, 849 F.2d 1430, 7 USPQ2d 1129 (Fed. Cir. 1988).

The Hunt patent discloses a method and apparatus for storing multimedia packages having a solid one piece corrugated support having a least one crowned surface for supporting packages and a pair of front and rear retainers to confine the series of packages.

### *Independent Claim 1*

Independent claim 1 is allowable for at least the reason that Hunt does not disclose, teach, or suggest "at least two spaced-apart rails, each rail having at least one series of package supporting portions for supporting packages from below" or "at least

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one cross member interconnecting the rails to form a generally open frame configuration."

In this regard, and with reference to the teaching of the Hunt patent, the Office Action cites generally Fig. 10 and "spaced apart rails, cross members, retainer 38, glide 29."

Since a reference number has not been provided with the "spaced apart rails" reference in the Office Action, the Applicant surmises that the Office Action is referring to the slides 75 and 77. The slides 75 and 77 may be rails, but do not include "at least one series of package supporting portions." In fact, the slides of Hunt merely attach to tray 27 having corrugated support 29. Fig. 10 does not appear to show any other "spaced apart rails." Therefore, Hunt does not disclose "at least two spaced-apart rails, each rail having at least one series of package supporting portions for supporting packages from below."

Similarly a reference number has not been provided with the "cross members" reference in the Office Action, the Applicant further surmises that the Office Action is referring to the tray 27. The tray 27 may connect with the slides 75 and 77, but does not in combination with the slides "form a generally open frame configuration." In fact, the slides and tray form a closed one piece member with the only opening in the tray 27 being vertical slot 71. Fig. 10 does not appear to show any other "cross members." Therefore, Hunt does not disclose "at least one cross member interconnecting the rails to form a generally open frame configuration."

Accordingly, the rejection is deficient in these areas. Notwithstanding, the undersigned has reviewed the entirety of the Hunt patent and has failed to identify any such teachings anywhere within this reference. Accordingly, the Hunt patent fails to teach or disclose the invention as defined by claim 1, and the rejection of claim 1 should be withdrawn.

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*Independent Claim 26*

Independent claim 26 is allowable for at least the reason that Hunt does not disclose, teach, or suggest a glide having "a central portion" and "a pair of wings connected to the central portion, each wing being adapted to engage a rail and to slidably move along the rail."

In this regard, and with reference to the teaching of the Hunt patent, the Office Action cites generally Fig. 10 and "spaced apart rails, cross members, retainer 38, glide 29."

The Applicant surmises the Office Action is attempting to equate what it refers to as "glide 29" to the glide of claim 26. In the Hunt patent reference number 29 is assigned to the corrugated support. Corrugated support 29 clearly does **not** include "a central portion" and "a pair of wings connected to the central portion, each wing being adapted to engage a rail and to slidably move along the rail." Fig. 10 does **not** appear to show any "glide." Therefore, Hunt does not disclose a glide having "a central portion" and "a pair of wings connected to the central portion, each wing being adapted to engage a rail and to slidably move along the rail."

Accordingly, the rejection is deficient in this area. Notwithstanding, the undersigned has reviewed the entirety of the Hunt patent and has failed to identify any such teaching anywhere within this reference. Accordingly, the Hunt patent fails to teach or disclose the invention as defined by claim 26, and the rejection of claim 26 should be withdrawn.

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*Independent Claim 32*

Independent claim 32, as amended, is allowable for at least the reason that Hunt does not disclose, teach, or suggest "at least two spaced-apart rails, each rail having a side edge and having at least one series of package supporting portions for supporting packages from below" as described above regarding claim 1. Accordingly, the Hunt patent fails to teach or disclose the invention as defined by claim 32, and the rejection of claim 32 should be withdrawn.

*Independent Claim 38*

Independent claim 38 is allowable for at least the reason that Hunt does not disclose, teach, or suggest "at least two spaced-apart rails, each rail having at least one series of package supporting portions for supporting packages from below" as described above regarding claim 1. Accordingly, the Hunt patent fails to teach or disclose the invention as defined by claim 38, and the rejection of claim 38 should be withdrawn.

Response to Claim Rejections Under 35 U.S.C. §103

Claims 13-25 and 34-37 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Hunt (U.S. Patent No. 6,332,546). Applicant respectfully traverses this rejection.

Applicant submits that this rejection is insufficient. According to MPEP 706.02(j), the following should have been provided in the Office Action:

After indicating that the rejection is under 35 U.S.C. 103, the examiner should set forth in the Office action:

(A) the relevant teachings of the prior art relied upon, preferably with reference to the relevant column or page number(s) and line number(s) where appropriate,

(B) the difference or differences in the claim over the applied reference(s),

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(C) the proposed modification of the applied reference(s) necessary to arrive at the claimed subject matter, and  
(D) an explanation why one of ordinary skill in the art at the time the invention was made would have been motivated to make the proposed modification.

Since none of the above were included in this Office Action, the issues regarding the basis for rejection could not be clearly identified. However, to expedite prosecution of this application, the Applicant will respond to this rejection in the Office Action showing the differences between the present invention and the Hunt patent.

*Independent Claim 13*

Independent claim 13 is allowable for at least the reason that Hunt does not disclose, teach, or suggest "positioning at least two rails in a spaced-apart configuration, each rail having at least one series of package receiving portions for supporting packages from below" or "providing at least one cross member to provide a generally open frame configuration" as described above regarding claim 1. Accordingly, the Hunt patent fails to teach or disclose the invention as defined by claim 13, and the rejection of claim 13 should be withdrawn.

*Independent Claim 34*

Independent claim 34 is allowable for at least the reason that Hunt does not disclose, teach, or suggest "using a pair of spaced-apart rails having a cross member at one end of the rails and a retainer slidably mounted relative to the rails" or "sliding the retainer to an opposite end portion of the rails to maintain the rails in substantial parallelism."

Hunt does not disclose "using a pair of spaced-apart rails having a cross member at one end of the rails" as described above regarding claim 1. The retainers 38 and 40 of Hunt are movable, but neither are "slidably mounted" or capable of

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"sliding." Furthermore, the slides 75 and 77 of Hunt maintain "substantial parallelism" due to tray 27, **not** due to any movement of either of the retainers 38 and 40. Therefore, Hunt does not disclose "using a pair of spaced-apart rails having a cross member at one end of the rails and a retainer slidably mounted relative to the rails" or "sliding the retainer to an opposite end portion of the rails to maintain the rails in substantial parallelism."

Accordingly, the rejection is deficient in these areas. Notwithstanding, the undersigned has reviewed the entirety of the Hunt patent and has failed to identify any such teachings anywhere within this reference. Accordingly, the Hunt patent fails to teach or disclose the invention as defined by claim 34, and the rejection of claim 34 should be withdrawn.

*Independent Claim 35*

Independent claim 35 is allowable for at least the reason that Hunt does not disclose, teach, or suggest "using a U-shaped rodlike retainer having a pair of leg portions, each having a pair of foot portions each terminating at their distal ends in a depending tip portion" or "releasing the leg portions to permit them to spring outwardly and to move past a pair of flex retaining ribs to their unstressed positions to capture the foot portions within said slots."

The retainer 38 of Hunt is "a U-shaped rodlike retainer having a pair of leg portions", but each leg portion does **not** include "a pair of foot portions each terminating at their distal ends in a depending tip portion." Furthermore, the Hunt patent does **not** show "a pair of flex retaining ribs". Therefore, Hunt does not disclose "using a U-shaped rodlike retainer having a pair of leg portions, each having a pair of foot portions each terminating at their distal ends in a depending tip portion" or "releasing the leg portions to permit them to spring outwardly and to move past a pair of flex retaining ribs to their unstressed positions to capture the foot portions within said slots."

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Accordingly, the rejection is deficient in these areas. Notwithstanding, the undersigned has reviewed the entirety of the Hunt patent and has failed to identify any such teachings anywhere within this reference. Accordingly, the Hunt patent fails to teach or disclose the invention as defined by claim 34, and the rejection of claim 34 should be withdrawn.

#### *Dependent Claims*

Dependent claims 2-12, 14-25, 27-31, 33, 36-37, and 39-42 are believed to be allowable for at least the reason that these claims depend from allowable independent claims 1, 13, 26, 32, 35, and 38, respectively. *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q.2d 1596, 1600 (Fed. Cir. 1988).

#### **CONCLUSION**

In light of the foregoing amendments and for at least the reasons set forth above, Applicant respectfully submits that all objections and rejections have been traversed, rendered moot, and/or accommodated, and that now pending claims 1-42 are in condition for allowance. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned at 619-231-3666.

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Please direct all correspondence to the undersigned attorney or agent at the address indicated below.

Respectfully submitted,

Date: September 29, 2005

DUCKOR SPRADLING METZGER & WYNNE  
A Law Corporation  
401 West A Street, Suite 2400  
San Diego, California 92101-7915

Telephone No.: 619.231.3666  
Facsimile No.: 619.231.6629  
Email Address: [kleinke@dsmwlaw.com](mailto:kleinke@dsmwlaw.com)

By 

Bernard L. Kleinke  
Attorney for Applicant  
Registration No. 22,123